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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-sixth session

Summary record of the 1482nd meeting*
Held at the Palais des Nations, Geneva, on Tuesday, 21 February 2017, at 10 a.m.

Chair: Ms. Leinarte

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* No summary records were issued for the 1480th and 1481st meetings.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth periodic reports of Germany (CEDAW/C/DEU/7-8; CEDAW/C/DEU/Q/7-8 and Add.1)

1. *At the invitation of the Chair, the delegation of Germany took places at the Committee table.*

2. **Ms. Ferner** (Germany), introducing the State party's combined seventh and eighth periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/DEU/7-8), said that recent events had served to highlight the extent to which the global order was in a state of flux, with national interests taking precedence over human rights and fundamental values and putting hard-fought women's rights at risk. Further progress towards gender equality was therefore important to prevent a return to the old ways. Although Germany had yet to attain de facto gender equality, it had achieved significant milestones in recent years. Various national plans of action containing a gender perspective had been adopted, such as the National Action Plan on Business and Human Rights, a national strategy on sustainable development, which formed the basis of the country's implementation of the 2030 Agenda for Sustainable Development, and the second national action plan on the implementation of United Nations Security Council resolution 1325 (2000) on women and peace and security.

3. Following the implementation of a number of measures, Germany was now finally in a position to ratify the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which was likely to occur by mid-2017. In line with the Istanbul Convention, a national toll-free hotline had been introduced in 2013 to offer round-the-clock support in 17 languages, including sign language, to women victims of violence. The hotline had been a particularly important resource for refugee women, migrant women and women with disabilities. Activities to promote the hotline were regularly carried out, and information had also been made available in refugee shelters. Similarly, a national support hotline had been set up to support pregnant women in financial distress.

4. Legislation on sexual offences had also undergone important reforms. The principle of "no means no" had now been laid down in German criminal law, making women's consent the deciding factor, closing gaps in the law to protect women from violence and strengthening their right to make choices and decisions about their sexuality. Following the New Year's Eve sexual assaults in Cologne and other German cities in 2015, sexual harassment had also been made a specific punishable offence. Information campaigns had been launched to raise awareness of the changes to the law, and it was hoped that victims would now have the confidence to report such offences. The recording of police crime statistics had also been changed so that it more accurately reflected relevant disaggregated data, in line with the data-collection requirements of the Istanbul Convention, particularly in cases of domestic violence. The law on human trafficking and forced prostitution had also been amended, while new legislation regulating the prostitution industry and providing better protection for sex workers had been introduced in 2016, making it easier to distinguish between legal and forced prostitution.

5. Female genital mutilation had become a punishable offence in 2013, and the country's first study on that phenomenon had recently been conducted to highlight areas for improvement. The resulting data had shown that some 47,000 women living in Germany were victims of female genital mutilation and that as many as 5,000 girls were at risk. The figures had been increasing as a result of recent waves of migration. In view of the fact that some 240,000 women and girls had sought asylum in Germany in the past year, it was vital

to ensure that their fundamental human rights were respected and that they were protected from violence. With that in mind, an initiative had been launched with several international partners, including the United Nations Children's Fund (UNICEF), with a view to protecting women and children living in refugee shelters. Similarly, there were plans to increase the number of shelters staffed with coordinators responsible for preventing violence to 100 in the coming year. The government-owned KfW development bank had made €200 million in interest-free loans available to provide for more secure accommodation in the shelters. Efforts were also under way to introduce minimum anti-violence standards in refugee centres nationwide.

6. Notwithstanding the progress made in several spheres, gender inequalities still persisted, not least in terms of unequal working hours for women, the gender pay gap, the uneven distribution of responsibilities for unpaid care work and the low numbers of women in positions of leadership. Traditional gender roles were, however, starting to change. Younger generations, in particular, were showing a preference for shared responsibility in terms of work and family life; and, yet, only 14 per cent of young couples had been able to achieve that goal. It was necessary, therefore, to ensure that measures to reconcile work and private life met the needs of both women and men. For that reason, an act providing for parental leave and allowances had been amended in 2015 to offer more incentives and more flexibility regarding parental leave. In the 10 years since parental allowances had been introduced, the proportion of men taking parental leave had increased from 3 per cent to 34 per cent, although men continued to take much shorter leave periods than women. Steps were also being taken to expand the childcare infrastructure, with more than €8 billion in federal funding having been allocated to that end. Moreover, the number of children under 3 years of age in childcare had risen by 100,000 since 2013, and an additional €1.1 billion had been designated to improve the overall quality of childcare and fund even more places. Two new federal programmes aimed to increase the opening hours of childcare facilities, and many states (*Länder*) had introduced, or were in the process of introducing, free childcare places. The situation of single-parent families — predominantly women-headed households — had also been taken into account, with increases in family-related benefits, child benefits and tax-free allowances. A State-funded maintenance allowance, paid in the event of a parent's failure to meet alimony obligations, would also be expanded.

7. Turning to women's employment, she said that the federal government had introduced a range of measures and incentives to ensure equal pay for equal work of equal value. First, a bill on pay transparency, which aimed to bridge the gender pay gap through more transparent pay structures, was currently before the parliament. Under the bill, 14 million employees would have the right to know how their pay compared to that of a comparable group. Companies with more than 500 employees would also be obliged to carry out regular checks to identify whether or not women were being systematically disadvantaged. Second, a bill to reform the social service professions had also been formulated with a view to increasing the pay and raising the profile of such female-dominated occupation as nursing. A third bill was envisaged to guarantee the right of all employees to temporarily reduce their working hours. It was hoped that such legislation would not only enable women to return to full-time work after raising a family — thereby improving their career, income and pension prospects — but would also give more men the opportunity to adopt more flexible working arrangements. Lastly, a 30 per cent gender quota had been introduced in early 2016 with a view to increasing women's representation on company supervisory boards. Interestingly, many of the companies bound by that quota had gone so far as to set their own ambitious, voluntary gender targets for other levels of management. The public sector was also leading by example, and, to date, around 36 per cent of all board members appointed by the federal government had been women.

8. A raft of other legislative measures and reforms were also currently under way. The Maternity Protection Act of 1952 was being amended to improve safeguards for women's

health and safety, uphold women's rights in the areas of employment and education and provide for enhanced maternity leave for women caring for children with disabilities. A requirement for women's representatives in sheltered workshops for people with disabilities had been introduced, as had comprehensive non-discrimination policies for the lesbian, gay, bisexual, transgender and intersex persons (LGBTI). Lastly, a unit focusing on gender identity issues and same-sex lifestyles had been established, for the first time, within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

Articles 1 to 6

9. **Ms. Schulz** said that Germany had set an impressive example in generously opening its doors to more than a million refugees fleeing their homelands, thereby reminding Europeans of their core values. Since the spring of 2016, however, access to Germany and opportunities for obtaining refugee status or subsidiary protection had become more restricted. She wondered whether the Government was willing to reconsider those restrictions, in particular in family reunification cases involving persons granted subsidiary protection, a measure that had now been suspended until March 2018.

10. Regarding the State party's General Equal Treatment Act, she wished to know whether the Government intended to introduce measures to enable women's organizations and trade unions to bring class actions, grant the Federal Anti-Discrimination Agency the right to act in court cases, launch investigations and impose sanctions and extend the extraordinarily short two-month deadline for lodging complaints of discrimination. She would welcome information on how intersectional discrimination was treated under that Act, whether there were plans to amend it in order to incorporate issues relating to unfair dismissal and whether the Government was considering abolishing article 6 of the Act, which provided for differential treatment on the grounds of religion or beliefs. She also asked whether the Government envisaged extending sexual harassment legislation to cover all spheres of life, since it was currently limited to criminal and labour law.

11. The federal system was complex and she wondered whether the use of conferences at the level of its 16 states, with representatives of the federal government attending as observers only, was adequate to ensure full implementation of the Convention and national anti-discrimination legislation throughout the country. Referring to a January 2015 decision of the Federal Constitutional Court, in which a headscarf ban for teaching staff, introduced by one state, had been ruled unconstitutional, she asked whether that decision was binding on all states. If not, how would the Government ensure that no other states were able to introduce such a law?

12. Turning to the extraterritorial application of the Convention, she said she was concerned that Germany was exporting arms to countries whose human rights records were abysmal. While certain control measures were in place with the aim of preventing German weapons from being used to commit human rights abuses, she wondered whether there were plans to introduce stricter measures, increase transparency and enable export decisions to be scrutinized by the parliament and the public. She noted with concern that, while the State party had adopted a National Action Plan on Business and Human Rights to implement the United Nations Guiding Principles on Business and Human Rights (Ruggie Principles), that Plan did not incorporate a gender perspective or provide for the protection of vulnerable groups. She wondered whether relying on the goodwill of companies to take voluntary measures was really enough to prevent human rights violations from being committed abroad by German firms and their subsidiaries and whether stronger measures were envisaged to ensure that victims of serious human rights violations committed abroad, such as the forced land evictions associated with the Kaweri Coffee Plantation in Uganda, received adequate redress. Lastly, was the Government willing to become more proactive in

supporting the adoption of a binding treaty on business activities and human rights responsibilities in third countries?

13. **Ms. Ferner** (Germany) said that the influx of refugees had not been without controversy in Germany, and it was the sheer number of refugees that had prompted the Government to take the decision to suspend family reunification provisions until 2018. In the meantime, discussions were under way with respect to which refugees were entitled to subsidiary protection or residence permits.

14. A report evaluating the mandate of the Federal Anti-Discrimination Agency had recently been submitted and was currently being discussed by the federal government. Thus, no response could yet be provided on whether its mandate or powers were to be altered or extended. A decision was likely to be taken before the parliamentary elections in September 2017. As to the provision allowing for differential treatment on the basis of religion, it was hoped that the outcome of a related case currently before the European Court of Human Rights would provide some guidance on whether or how that law might be changed.

15. In the light of the fact that sexual harassment was now an offence punishable under the Criminal Code, the relevant provisions covered all areas of life, not just employment. The amendments to the law had made it clear that sexual harassment was not a minor offence; it was punishable under criminal law and was to be applied equally, whether in the workplace, on public transport or in bars and nightclubs.

16. As to the implementation of the Convention, while it was no easy matter to ensure that it was consistently implemented nationwide, Germany took the fairly unusual approach of incorporating international treaties to which it was a party into domestic law before ratifying them, which was why it took longer to ratify international treaties in Germany than it did in other countries. The federal government and the states worked together to identify and enact any legislative amendments required for the comprehensive implementation of a convention, and only once that had been completed was a convention ratified.

17. Regarding the headscarf ban, while there was a common administrative law, the ultimate responsibility lay with the employer. Thus, in the case of public servants like teachers, such decisions rested with the states. The introduction of a federal law would not, therefore, necessarily have any effect in any event.

18. The National Action Plan on Business and Human Rights was, to all intents and purposes, a business code of conduct. While civil society was clearly in favour of taking a stricter approach, the Action Plan had paved the way for dialogue with industry and had heralded the introduction of fair trade labelling, among other initiatives, which certified that products were produced in fair, sustainable and exploitation-free conditions.

19. **Ms. Pamuk** (Germany) said that arms export applications were considered on a case-by-case basis and a risk evaluation was conducted as a matter of course. Gender-based violence and human rights violations were some of the factors taken into consideration, in line with the Council of the European Union Common Position defining common rules governing the control of exports of military technology and equipment and the United Nations Arms Trade Treaty. The Government was of the view that that approach was comprehensive and target-orientated and that the necessary issues were sufficiently taken into account. Germany was only the eleventh country to have submitted a National Action Plan on Business and Human Rights. A gender approach underlay the principles of that Plan, which advocated for the equal participation of women and men at all levels and in all fields. Germany favoured a broad consensus approach containing clear progress indicators and thus liaised with industry and civil society with a view to improving human rights, in particular women's rights. It had, however, made it clear that, if the desired targets were not met by the business sector, it would consider introducing binding measures.

20. **Ms. Schulz** said that, regarding sexual harassment, she had wished to hear more about any civil law rather than criminal law provisions. Did the State party have any civil legislation regarding sexual harassment in schools and hospitals, for example?

21. Regarding arms exports, she asked whether other human rights violations besides gender-based violence also formed part of the eligibility criteria. Since weapons were invariably used in and led to conflicts, which had a negative effect on basic services such as health and education, did that also play a part in assessing whether to authorize exports?

22. She would welcome more information on the specific indicators and targets that had been set under the National Action Plan on Business and Human Rights. Could the delegation describe a scenario in which the Government would consider that such targets had not been met, thus requiring the introduction of binding legislation? Goodwill and consensus were all well and good, but it was only through the introduction of specific legislation that persons would be fully able to exercise their rights. She hoped that a system would also be established to compensate victims of human rights abuses abroad for any losses incurred because of German business practices. As things currently stood, how were victims able to assert their rights?

23. **Ms. Ameline** said that the German Chancellor's bravery in granting international protection to so many refugees had been commendable and it was regrettable that a more coordinated approach by the European Union had yet to be found. She asked whether an impact assessment had been conducted in respect of a law aimed at helping refugees integrate into German society and what measures were in place to help women refugees to find employment, in particular in professions related to new technologies.

24. **Ms. Ferner** (Germany) said that, in addition to criminal law provisions on sexual harassment, civil law regulations and disciplinary measures were also in place in the public employment sphere: teachers and health workers could therefore face disciplinary measures for sexual harassment. Thus, a range of mechanisms was available. As to the National Action Plan on Business and Human Rights, while it was true that industry goodwill was not always enough, businesses were very much aware of the damage that could be caused to their brands if dangerous practices or poor working conditions ever came to light. Moreover, industry players were mindful that the Government was prepared to introduce binding legislation if necessary; that fact, in and of itself, seemed to have been quite effective. The Government would continue to evaluate the Plan and, if required, would amend it or introduce stricter regulations. In that connection, victims of human rights violations abroad could seek redress from the company involved.

25. The law on refugee integration was a milestone in Germany. Efforts had been made to ensure that refugee women with children in particular were able to attend language courses by childcare services available or other arrangements. Civil society organizations, like DaMigra, a national umbrella organization for migrant women throughout Europe, also provided a range of integration measures, which were often funded at the federal or state level. By way of example, a mentorship programme had been set up to enable migrant women to set up their own businesses with guidance from women mentors, who helped them to navigate legal and administrative complexities. Opportunities were also available to help migrant women to find or return to work, including those who had lived in Germany for many years. Overall, there was a concerted effort to rectify the mistakes of previous years, when policy had focused almost entirely on men migrants: there was a real belief now that women were the key to integration.

26. **Ms. Pamuk** (Germany), responding to a question raised by Ms. Schulz, said that protecting and respecting human rights was a key aspect of German policy with regard to German countries operating abroad. Thorough risk evaluations were conducted for each

arms export application, and, if it was found that there was a risk of any form of human rights violation whatsoever, then the application would be denied.

27. **Ms. Schulz** asked whether the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth provided long-term, structural financing or project-related funding to the DaMigra migrant organization. In the Committee's experience, good initiatives such as that one were often vulnerable owing to a lack of sufficient long-term funding.

28. **Ms. Ferner** (Germany) said that for the period 2016-2019 DaMigra had been allocated €660,000 in funding for a specific project. That was, admittedly, one of the deficiencies in the provision of federal funding: it could only be used to finance pilot projects. However, in her experience, once such a project had been tried and tested and had shown itself worthy of continued investment, further funding for other follow-up projects was always found. Discussions were currently being held on ways to find more stable sources of funding for civil society.

29. **Ms. Haidar** said in view of the fact that a great many government ministries had gender equality mandates, she wished to know how coordination with and between those agencies was ensured both at federal and state levels. The Federal Anti-Discrimination Agency also had a gender equality mandate, but there were concerns regarding the fact that it had no powers to support individuals in court or to impose fines. She also wished to echo the concerns raised by Ms. Schulz in relation to ensuring consistent implementation of the Convention at the states and federal levels.

30. During the previous dialogue and in the replies to the list of issues (CEDAW/C/DEU/Q/7-8/Add.1), it had been stated that gender budgeting at the federal level was not considered to be suitable or possible. The Committee had, however, become aware of a report to the contrary, and reports even suggested that some states were in fact implementing gender budgeting. With that in mind, she wondered whether the Government intended to revisit the issue at the national level, including with regard to technical cooperation. In that connection, since gender mainstreaming was key to the achievement of the Sustainable Development Goals, she wondered whether it was being systematically implemented. Lastly, she asked whether there were plans for the German Institute for Human Rights to formally oversee the implementation of all human rights treaties ratified by Germany, whether its budget was sufficient for its activities in relation to gender equality and non-discrimination and how it coordinated with other human rights mechanisms at the state level, in particular with regard to gender equality issues.

31. **Ms. Nadaraia** said that she wished to know whether any temporary special measures had been introduced to target fields in which women were particularly underrepresented or disadvantaged and improve the situation of vulnerable groups of women who faced multiple forms of discrimination. She also wondered whether there were plans to extend the use of temporary special measures to other disadvantaged groups, such as asylum seekers and refugees.

32. **Ms. Ferner** (Germany) said that, in addition to the comprehensive package of initiatives for refugees, several special measures had been introduced. By way of example, so-called language nurseries had been set up for children from migrant backgrounds in order to enable them to learn German. In general, however, targeted measures were decided at the local rather than the federal level in order to better meet the needs of the people living in that area.

33. Although the Federal Anti-Discrimination Agency did not currently have a mandate to bring class action in court, provision had been made under the General Equal Treatment Act to enable the Agency to provide parties to such lawsuits with legal aid if required.

34. It was true that a gender-budgeting study had been undertaken; however, while Berlin had introduced gender budgeting and believed it to have been successful, the Federal Ministry of Finance did not consider gender budgeting to be a suitable approach. Thus, there was no agreement in the current federal government to implement such budgeting at the national level. Gender mainstreaming, on the other hand, was an integral part of German policies and efforts were made to ensure that the sustainability strategy, for example, contained a gender dimension.

35. **Ms. Wittenberg** (Germany) said that, in 2010, the Standing Conference of Ministers of Education and Cultural Affairs had made recommendations regarding sexual harassment in schools which included implementing prevention measures and sex education, building relationships between schools and external partners, providing awareness-raising about the issue to teachers as part of their training, reporting incidents to school management and drafting a code of conduct.

36. **Ms. Ferner** (Germany) said that the country's temporary special measures included quotas for women's representation on supervisory boards, which was regularly evaluated, the Equal Pay Day campaign and measures to encourage the promotion of women to senior positions in the medical and academic sectors.

37. **Mr. Beer** (Germany) said that changes to the mandate of the German Institute for Human Rights would require a legislative amendment, which was not feasible before the next elections. There was a great deal of cooperation between the Institute and the states, particularly in the area of research. The Institute's first annual report would soon be published on its website.

38. **Ms. Haidar** asked whether the post of equal opportunities officer at agencies with at least 100 employees was full-time and whether consideration had been given to opening the position up to men. Given that ultimate accountability for the implementation of the Convention lay with the federal government, she asked how the Government ensured its consistent implementation across the states.

39. **Ms. Nadaraia** asked what temporary special measures existed for transgender, intersex and gay persons, asylum seekers, refugees and stateless women.

40. **Ms. Ferner** (Germany) said that equal opportunities officers in large organizations could carry out their role on a full-time basis if necessary or they could share their responsibilities with a deputy. The position was not open to men, because officers dealt mainly with discrimination against women, and only female employees could vote to elect them. Nevertheless, officers supported men who wished to improve the balance between their family and work lives. The federal government worked with the states in a number of ways, including through conferences of state ministers and working groups, where difficulties in implementing international instruments could be discussed. However, the states were expected to adapt their legislation prior to the ratification of an instrument.

41. Issues affecting intersex, transgender and gay persons were addressed by a branch of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, which, for example, had held consultations on changes to the Civil Status Act. Staff members at some reception centres were trained in the needs of transgender and intersex refugees and asylum seekers, and civil society was actively involved in supporting those communities and received funding from the federal government, for example through the "Living Democracy" programme, which combated racism, xenophobia, homophobia and transphobia. There was a range of pilot projects that assisted women refugees in launching their own businesses as a means of joining the workforce.

42. **Ms. Acar** asked whether the State party planned to withdraw its reservations to article 59 (2) and (3) of the Istanbul Convention regarding refugees and asylum seekers

who were victims of violence against women and how the judiciary, police officers, investigating officials, social workers and health professionals were trained on the Istanbul Convention and amendments to the Criminal Code.

43. She wished to know when shelters would be accessible to all women facing violence, including migrant and refugee women and women with precarious residence status, for whom the protection offered by shelters was insufficient, how the long-standing confusion regarding the division of funding for shelters between the states and the federal government would be resolved and when the additional measures to respond to the needs of refugees and asylum seekers who suffered violence against women, such as the coordinators tasked with preventing violence in shelters, would be in place. Lastly, she asked whether the Government planned to amend legislation that allowed minors aged 16 and 17 to marry with their parents' consent given the State party's pledge to combat early and forced marriage.

44. **Ms. Halperin-Kaddari** said that the practice of performing surgery on intersex infants to bring their physical appearance into line with binary gender stereotypes could not be medically justified. Despite the State party's recognition of that fact, there had been no reduction in the number of such operations undertaken each year in Germany. Noting that the German Ethics Council had recommended that the practice should only be carried out on persons unable to give their consent if it was in their best interests, she asked who decided what was in a child's best interests and whether the State party would adopt the principle that only medically necessary, lifesaving procedures should be carried out and introduce independent legal experts to represent minors in matters that brought them into conflict with their parents or the authorities. She wished to know why the State party believed that the establishment of a compensation fund for intersex victims of unnecessary medical interventions required careful consideration.

45. **Ms. Jahan** asked whether the State party planned to adopt a comprehensive anti-trafficking strategy that adopted a gender perspective and considered the phenomenon not only in terms of criminal law but also as a direct consequence of problems such as poverty, migration and violence against women. She would be particularly interested in hearing about how potential victims were identified among refugees and asylum seekers. She asked whether European Union directive 2011/36/EU on trafficking would be entirely transposed into German legislation and whether an independent national rapporteur on trafficking had been appointed in accordance with that directive.

46. Although the State party had made commendable efforts to prosecute and convict sex traffickers, some shortcomings remained, including the use of short and suspended prison sentences and low numbers of investigations, perhaps owing to the complexity of the relevant section of the Criminal Code. She wondered whether the recent revision of that section had resulted in the amendment of its provisions on trafficking for sexual exploitation and would appreciate information on the measures adopted to ensure that all traffickers were punished with sentences commensurate with the gravity of their crimes. She would welcome details of the capacity-building and training on trafficking given to investigating officials and prosecutors and how assistance for victims was coordinated across the country. She wished to know whether the amendments to the law on residency requirements allowed victims of trafficking to obtain long-term residence permits, regardless of their willingness to testify in court.

47. She asked what monitoring mechanisms were in place to ensure that the necessary punitive measures were implemented under the Prostitution Act and whether the pilot project to assist women who wished to leave prostitution had been evaluated and extended nationwide. Lastly, she asked whether measures would be introduced to reduce demand for prostitution under the law on human trafficking mentioned in paragraph 49 of the State party's replies to the list of issues (CEDAW/C/DEU/Q/7-8/Add.1).

48. **Ms. Ferner** (Germany) said that all of the provisions of the Istanbul Convention had been incorporated into domestic legislation. Training on that Convention for case workers within the Federal Office for Migration and Refugees covered gender-based and sexual violence to enable them to identify victims. Judges were independent, and, while the German Judicial Academy offered ongoing training, they were not obliged to participate in it. Training was also offered to social workers and health-care professionals, allowing them to offer counselling to female victims of violence.

49. Funding for women's shelters was the responsibility of the states, which each took a different approach, with some shelters being funded by the authorities, some by users and some by a combination of the two. Although debates had been held on the harmonization of those funding mechanisms, the federal government was unable to impose decisions on the states. Access to women's shelters was guaranteed, and refugees were permitted to breach the terms of their residency permit by leaving their designated area of residence if no shelters were available there. Shelter operators were required to implement their own schemes to protect refugees from violence. Although the states did not provide support in that regard, the federal government was extending the training that it offered to shelter staff. Nevertheless, many refugees had moved out of shelters and into individual accommodation, making it more difficult to protect those who were victims of violence against women.

50. Minors aged 16 and 17 years must seek the permission of their parents and a family court if they wished to marry. Although the Government agreed in principle that only persons aged 18 or over should be able to marry, amendments to the law would cast uncertainty on the status of the marriages of those aged under 18 who married abroad.

51. The Government had issued guidelines on unnecessary irreversible medical procedures, which should not be carried out on minors who were unable to give their consent. Therefore, intersex children could be subjected to irreversible medical interventions only if their health was at risk. Violations of those guidelines were considered an offence. Efforts were being made to improve counselling for parents facing such situations, and the Government was debating whether to establish a compensation fund for victims.

52. Germany had implemented the European Union directive on trafficking, which provided for penalties against the clients of sex workers. Furthermore, clients could be prosecuted for failing to notify the police if they suspected that a sex worker had been forced into prostitution. Under the amended Residence Act, female victims of trafficking were required to participate in legal proceedings in order to identify the perpetrators if they wished to obtain residence.

53. A new law was due to enter into force that would clarify the grey area created by the fact that prostitution was legal but brothels were not. Under the new law, brothels would be required to obtain a licence and meet standards for working conditions and to inform the authorities about who was working for them. Regular inspections would be undertaken to ensure that standards continued to be upheld. Sex workers were also required to register with the authorities; in return, they received advice and information on their rights, on leaving prostitution and on available services for victims of crime funded by the states.

54. **Ms. Acar** said that the State party's reservations to the provisions of the Istanbul Convention were particularly pertinent, because they related to the suspension of refugees' expulsion if they were victims of gender-based violence and to the renewal of residence permits; as things stood, some female refugees were forced to remain with violent partners for a number of years so that they could obtain the right to residency. She was still hoping to have a response to her question about when those reservations might be withdrawn and asked whether they were currently under discussion.

55. **Ms. Jahan** said that according to information received by the Committee, only victims of physical violence were eligible for compensation, and she wished to know what provisions were made for victims of non-physical violence.

56. **Ms. Halperin-Kaddari** asked when the guidelines on treatment for intersex children had been introduced and what were the prospects for establishing a compensation fund for intersex persons who had been subjected to unnecessary medical procedures.

57. **Ms. Schulz** asked whether the new law on brothels enabled prostitutes to work in groups or whether it was aimed at larger enterprises. As she understood it, there were no obstacles to including a ban on subjecting intersex persons to unnecessary medical procedures in the country's Criminal Code. She would welcome more information on the "Living Democracy" programme.

58. **Ms. Ferner** (Germany) said that, although Germany was not currently in a position to withdraw its reservations to the Istanbul Convention, it was working to resolve the issues raised by Ms. Acar, for example by granting the right to residency more quickly than the time frame provided for by the Residence Act in certain cases. The purchase of sex had not been prohibited because similar bans in other countries had merely pushed the industry underground. Germany had instead endeavoured to introduce clear rules in order to better distinguish legal prostitution from forced prostitution and thus increase prosecutions of the latter.

59. Doctors who failed to apply the guidelines that advised against unnecessary medical procedures for intersex children could be prosecuted for bodily harm, although more regulation of the matter was needed. Funding for the Living Democracy programme, which aimed to eradicate racism, xenophobia, homophobia and transphobia from German society, had been increased. The programme had been extended to the states and now provided long-term funding for a range of projects. Hatred towards women was one of the many areas targeted by the programme.

60. **Mr. Wirth** (Germany) said that compensation was granted in cases of assault that caused damage to the victim's health, including mental health, and was not limited to cases of physical violence.

61. **Ms. Blomeyer** (Germany) said that the guidelines on surgical interventions and intersex children, in combination with provisions of the Criminal and Civil Codes, amounted to a ban on unnecessary surgical procedures. The issue had also been examined by an interministerial working group that had made the same recommendations as those found in the guidelines, and a report produced by a legal expert had found that the compensation claims of transgender and intersex persons were often barred by the statute of limitations, which was a problem that still had to be grappled with.

62. **Ms. Henneberger** (Germany) said that the European Union anti-trafficking directive had been transposed into domestic law. Although the Government had not appointed a national rapporteur responsible for the implementation of anti-trafficking policies, as called for under the directive, it considered that it had established an equivalent mechanism under the Federal Criminal Police Office, which produced annual reports on trafficking in persons (*Bundeslagebild Menschenhandel* reports). Nevertheless, the Government was continuing its consultations with the relevant stakeholders, including with the German Institute for Human Rights, in order to determine whether a national rapporteur should be appointed.

63. **Ms. Ferner** (Germany) said that the new law on the protection of sex workers covered not only large brothels but also prostitutes who wished to form into groups provided that they fulfilled the relevant licensing requirements. Individual prostitutes working from their private residences were required to register with the authorities.

64. **Ms. Schulz** asked why there had been no reduction in the number of unnecessary medical procedures carried out on intersex persons if legal provisions existed to prohibit them.

65. **Ms. Ferner** (Germany) said that the guidelines had been introduced only a few months previously, and the results would be reflected in the statistics released at the end of 2017. If the guidelines failed to produce the desired effect, the Government would work with medical associations to address the issue.

Articles 7 to 9

66. **Ms. Nadaraia** said that although women's increased participation in political life and the voluntary gender quotas introduced by several political parties were commendable, there was still room for improvement in the executive branch and the states. She asked whether the State party would consider legislating on parity in parliamentary elections and for all positions in the federal administration and in the states, and, if so, what time-frame would be applied. Women's representation on boards of directors and supervisory boards of companies also remained low, and she wished to know how the State party planned to ensure that women enjoyed equal opportunities in terms of promotions.

67. The Committee had been informed that the Federal Act on Gender Equality was ineffective and that more than 30 per cent of federal bodies lacked updated gender equality plans with specific, measurable targets. There was also a reported lack of penalties imposed and action taken by equal opportunity officers. She asked whether the draft law on the equal participation of women and men in leadership positions in the private and the public sector had come into force.

68. It had also been reported that female judges and public prosecutors had limited career prospects, particularly when working part-time. She asked what measures were in place to ensure that women had equal access to public office and to promote their participation in diplomacy and international organizations.

69. **Ms. Schulz** asked when the parliament would be taking up the bill that would allow children born in Germany to migrants from non-European Union countries to maintain dual citizenship rather than having to choose between the two nationalities before the age of 23 and whether there was a risk that it would be thrown out or adopted with restrictive conditions.

70. While she welcomed the fact that transgender persons could request a change to their civil status without undergoing physical treatment, she noted that the process could be lengthy and complex. She asked whether the Government intended to bring the relevant legislation into line with international human rights standards, the Constitution and medical science and whether it was true that some transgender individuals were required to pay up to €8,000 to amend their identity documents. If true, would that amount be reduced?

The meeting rose at 1 p.m.